

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

ORANGE COUNTY ELECTRICAL  
INDUSTRY HEALTH AND WELFARE  
TRUST FUND; LOCAL UNION NO. 441 OF  
THE INTERNATIONAL BROTHERHOOD OF  
ELECTRICAL WORKERS; and DOUGLAS  
CHAPPELL, as Trustee of the above TRUST  
FUND,

Plaintiffs,

v.

MOORE ELECTRICAL CONTRACTING,  
INC., a California corporation,

Defendant.

Case No.: 11-CV-00942-LHK

ORDER DIRECTING PLAINTIFFS TO  
FILE STATEMENT RE: SERVICE OF  
PROCESS

Plaintiffs Orange County Electrical Industry Health and Welfare Trust Fund (the “Trust Fund”); Local Union No. 441 of the International Brotherhood of Electrical Workers (“IBEW Local 441”); and Douglas Chappell, as Trustee of the Trust Fund (collectively, “Plaintiffs”), have filed a third, unopposed motion for default judgment against Defendant Moore Electrical Contracting, Inc. (“Defendant”), alleging violations of the Employee Retirement Income Security Act of 1974 (“ERISA”), 29 U.S.C. §§ 1001-1191c, and the Labor Management Relations Act (“LMRA”), 29 U.S.C. §§ 141-188. A hearing on Plaintiffs’ motion is set for September 20, 2012.


Because Defendant has appeared in this action, Federal Rule of Civil Procedure 55(b)(2) requires, as a prerequisite to entry of default judgment, that Plaintiffs serve Defendant or its

1 representative with written notice of the application at least seven days before the hearing on the  
2 default judgment. *See* Fed. R. Civ. P. 55(b)(2). Here, Defendant timely answered the Complaint  
3 on March 24, 2011. *See* ECF No. 5. However, Defendant's counsel subsequently withdrew as  
4 attorney of record on July 20, 2011. *See* ECF No. 17. Plaintiffs filed their third motion for default  
5 judgment electronically on May 29, 2012, but did not file separate proof of service of the motion  
6 on Defendant. Given that Defendant's counsel withdrew as counsel of record on July 20, 2011,  
7 and Defendant has not requested permission to e-file itself, it is unclear whether Plaintiffs served  
8 Defendant with written notice of the default judgment application as required under Rule 55(b)(2).  
9 The Court is therefore unable to determine whether service of process was adequate.

10 Accordingly, by September 14, 2012, Plaintiffs shall file a statement and supporting  
11 declaration, as well as any necessary documentation, addressing whether and how Plaintiffs served  
12 written notice of the application for default judgment on Defendant.

13 **IT IS SO ORDERED.**

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15 Dated: September 13, 2012

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17 LUCY H. KOH  
18 United States District Judge  
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